IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No.488 of 2003**

DATE OF DECISION: February 14, 2007

RAJENDER SINGH ...PETITIONER

VERSUS

UNION OF INDIA AND OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.

PRESENT: MR. SANDEEP KOTLA, ADVOCATE FOR THE PETITIONER.
MR. ANMOL RATTAN SIDHU, ADDL.A.G., HARYANA
WITH MR. DEEPAK JINDAL, AAG, HARYANA.

ASHUTOSH MOHUNTA, J. (ORAL)

The petitioner is aggrieved by the orders (Annexure P-7, P-9 & P-11) by which he was ordered to be dismissed from service. Brief facts of the case are that the petitioner who was working as Constable in the Haryana Police proceeded on earned leave on 16.10.1996, for a period of 15 days. The petitioner was to return back for duty on 1.11.1996, but he reported back by overstaying for a period of 46 days i.e., on 17.12.1996. The petitioner did not seek any prior permission from the authorities for extension of his leave. A departmental enquiry was ordered to be conducted by the Inspector of Police, Welfare, Bhiwani vide order dated 15.7.1999. However, the petitioner chose not to appear in the departmental enquiry. A perusal of the order (Annexure P-7) by which a departmental enquiry was ordered shows that notices were sent to the petitioner to appear before the Superintendent of Police, Bhiwani on 16.8.1999. But despite that the

petitioner neither submitted his reply to the show cause notice nor appeared in person. In fact, as many as 9 notices were sent to the petitioner to appear in the departmental enquiry. As the petitioner did not appear in the departmental enquiry, therefore, the Superintendent of Police, Bhiwani declared the petitioner to be defaulter and ordered his dismissal from service for willfully being absent from 1.11.1996 to 16.12.1996. The petitioner filed an appeal before the Inspector General of Police, Hisar Range, Hisar which was dismissed vide order Annexure P-9. Thereafter, the petitioner filed a revision petition which was also dismissed vide order dated 17.1.2001, by the Inspector General of Police, Administration, Haryana (Annexure P-11).

Learned counsel for the petitioner contends that absence of the petitioner was because of the fact that he was suffering from mental illness and that it was a singular case of misconduct and hence, the extreme penalty of punishment should not have been passed against him. It has been argued that the length of service rendered by the petitioner should have been considered.

A perusal of the facts shows that the petitioner has willfully absented himself from his duties for the period 1.11.1996 to 16.12.1006. Despite issuance of show cause notice to the petitioner and various other notices to appear in the departmental enquiry, the petitioner chose not to put up any defence. Therefore, the Superintendent of Police, Bhiwani has rightly ordered the dismissal of the petitioner from service. The appeal and the revision filed by the petitioner have also been dismissed. The petitioner had also absented himself on 24.6.1998, from the Department.

The petitioner being a member of disciplined force was

required to report for duty on time. As he has not put up any defence in view of the enquiry conducted against him hence, the impugned orders have rightly been passed and the same are upheld.

February 14, 2007 **(ASHUTOSH MOHUNTA)**
Gulati **JUDGE**